

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

DERRICK LAMONT ALLEN

Plaintiff,

v.

VALERO; *et al.*

Defendants.

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No. 4:18CV00633-SWW-JJV

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge Susan Webber Wright. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before either the district judge or magistrate judge, you must, at the time you file your written objections, include the following:

1. Why the record made before the magistrate judge is inadequate.
2. Why the evidence to be proffered at the new hearing (if such a hearing is granted) was not offered at the hearing before the magistrate judge.

3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the district judge will determine the necessity for an additional evidentiary hearing. Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325


DISPOSITION

Derrick Lamont Allen ("Plaintiff") filed this action on September 4, 2018, alleging violations of his civil rights. (Doc. No. 1.) On September 10, 2018, mail from the Court to Plaintiff was returned as undeliverable. (Doc. No. 4.) In a September 10, 2018 Order, I directed Plaintiff to notify the Court of his change of address within thirty days and explained that I would recommend dismissal of this case if he failed to do so. (Doc. No. 5.) Because Plaintiff neither paid the filing and administrative fees in this case nor filed a motion to proceed *in forma pauperis*, in a September 12, 2018 Order I directed Plaintiff to do one or the other within thirty days. (Doc. No. 7.) The September 12, 2018 Order also requested that Plaintiff file an amended complaint within 30 days. (*Id.*) Plaintiff was advised that his failure to comply with the Order could result in the dismissal of his case. (*Id.*)

More than thirty days have now passed from the entry of my September 10, 2018 Order and from the entry of my September 12, 2018 Order. Plaintiff has not complied with or otherwise responded to either Order. Further, his mail continues to be returned as undeliverable. (Doc. Nos. 6, 8-11.) Plaintiff was warned that such failure would result in a recommendation that this action be dismissed without prejudice pursuant to Local Rule 5.5(c)(2). (Doc. Nos. 5, 7.)

IT IS, THEREFORE, RECOMMENDED that Plaintiff's Complaint (Doc. No. 1) be DISMISSED without prejudice and that the Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting this recommendation and the accompanying Judgment would not be taken in good faith.

DATED this 15th day of October, 2018.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE